

IN THE CHANCERY COURT FOR LOUDON COUNTY, TENNESSEE
NINTH JUDICIAL DISTRICT AT LOUDON

STATE OF TENNESSEE, *ex.rel.* PAUL G.
SUMMERS, Attorney General & Reporter,
Plaintiff,

v.

KIMBERLY H. COOK, individually and doing
and doing businessbusiness as LEGAL SERVICES OF EAST
TENNESSEE, and LEGAL SERVICES OF
EAST TENNESSEE, INC., a Tennessee
corporation,

Defendants.

AGREED ORDER GRANTING TEMPORARY INJUNCTION

The State's Motion for Temporary Injunction came to be heard on the 4th day of June, 1999. Based upon the agreement of the parties and the record herein, the Court finds that the State of Tennessee's Motion for Temporary Injunction should be granted.

The parties agree, and the Court concurs, that it is highly likely that the State will succeed on the merits of this action in showing that Defendants have violated the Unauthorized Practice and Improper Conduct statute, Tenn. Code Ann. §§ 23-3-101, et seq. ("Unauthorized Practice and Improper Conduct statute" or "UPL statute") and the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. §§ 47-18-101, et seq., ("TCPA") through Defendants' conduct as detailed in the State's Motion and Complaint. Furthermore, the parties agree, and the Court concurs, that the public equities advanced by the State outweigh the private equities of the Defendants, and therefore, an Agreed Temporary Injunction shall issue.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendants, Kimberly H. Cook, individually and doing business as Legal Services of East Tennessee, and Legal Services of East Tennessee, Inc. and their employees, agents, successors and assigns, and other persons in active concert or participation with the Defendants, shall be hereby temporarily enjoined from engaging, directly or indirectly, in the following conduct:

- (1) Defendants shall not engage in the practice of law or law business in the State of Tennessee;
- (2) Defendants shall not engage in any act or practice that violates Tenn. Code Ann. §§ 23-3-101, et seq. relating to the unauthorized practice of law;
- (3) Defendants shall not engage in any unfair or deceptive acts or practices in the conduct of their business and shall fully comply with all applicable provisions of the Tennessee Consumer Protection Act of 1977, Tenn. Code Ann. §§ 47-18-101, et seq.;
- (4) Defendant Kimberly Cook shall not, directly or indirectly, represent, state, promote, advertise, claim or imply that she can provide "legal services" such as, but not limited to, "divorces," "name changes," "wills," "powers of attorney," "affidavits," "eviction notices," "criminal injuries compensation claims," "Equal Employment Opportunity Commission complaints," "Tennessee Human Rights Commission complaints," "worker's compensation," "deeds" or other services, if Kimberly Cook does not possess a valid license to practice law in the State of Tennessee at the time of offering and providing the services;
- (5) Defendant Legal Services of East Tennessee, Inc. shall not, directly or indirectly, represent, state, promote, advertise, claim or imply that it can provide "legal services" such as, but not limited to, "divorces," "name changes," "wills," "powers of attorney," "affidavits," "eviction notices," "criminal injuries compensation claims," "Equal Employment Opportunity Commission complaints," "Tennessee Human Rights Commission complaints," "worker's compensation," "deeds" or other services unless the Defendant employs and attorney who possesses a valid license to practice law in the State of Tennessee to supervise the offering and providing of these services;
- (6) Without limiting the scope of paragraphs 1, 2 and 4, Defendants shall not, directly or indirectly, use the name "Legal Services of East Tennessee" or use any term or phrase of similar import when referring to their business. Without limiting the scope of this provision, Defendants will immediately cease using the name "Legal Services of East Tennessee" and destroy any letterhead, forms, business cards or other documents that use or refer to this name;
- (7) Without limiting the scope of paragraphs 1 and 2, Defendants shall not act as an advocate in a representative capacity for any consumer or person or make or prepare any documents for filing in any court in the State of Tennessee on behalf of any person or business, except as Defendant Kimberly Cook may lawfully represent herself;

(8) Without limiting the scope of paragraphs 1 and 2, Defendants shall not accept or deposit into their accounts any monies or other valuable consideration from any person for legal document preparation services performed by Defendants. Defendants shall immediately provide any such monies or other valuable consideration received under fee agreements entered into before the entry of this Order to any attorney appointed pursuant to section III of this Order or if an attorney has not been appointed, it shall be provided to the Clerk of the Chancery Court of Loudon County who shall retain said sums in escrow pending further orders of this Court;

(9) Defendants have represented that they are removing all assets from the business premises to a secure area. Defendants will provide a list to the Office of the Attorney General of all assets removed from the premises. Defendants have represented that the business checking account totaled twelve dollars and thirty-one cents (\$12.31) as of April 30, 1999. Defendants have indicated the account will be closed because maintenance of the account will be more than the current balance. On the day of entry of this Order, Defendants shall provide the Court with an accounting of all assets received for providing legal document preparation services and a list of all bank accounts into which money received for those services was deposited and the amount currently held in each bank account;

(10) Defendants shall be prohibited from, directly or indirectly, using terms or phrases such as "legal," "law," "legal services," "representation in court by a staff attorney is available for additional fee" or "Not certified as a Civil Trial Specialist by the Tennessee Commission on Continuing Legal Education and Specialization" that would indicate to consumers that the Defendants are providing legal services or acting as an advocate in a representative capacity for any consumer or person, unless Defendant Kimberly Cook is an attorney licensed by the State of Tennessee or unless Defendants employ an attorney who possesses a valid license to practice law in the State of Tennessee to supervise the offering and providing of these services; and

(11) Defendants shall be required to maintain all documents and records relating to (a) any appearance they made as an advocate in a representative capacity for any consumer or person, (b) any advice or counseling they gave to any consumer or person regarding the law, (c) any document or instrument they prepared for any consumer or person relating to any Tennessee law, (d) any financial records or documents relating to the operation of Legal Services of East Tennessee, and (e) any documents reflecting the names, addresses and amounts paid for any services provided by the Defendants. Defendants shall be prohibited from, directly or indirectly, destroying or removing such records.

II.

Defendants have been advised of their rights to obtain legal counsel in connection with this matter. Defendants have chosen not to retain counsel and expressly waive any rights to counsel at this time. The Defendants reserve the right to obtain counsel in the future.

III.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the State of Tennessee may, at any time, file a motion requesting that this Honorable Court appoint an attorney with the same powers as those set forth in Rule 9, Section 22 of the Rules of the Supreme Court of Tennessee relating to the Appointment of Counsel to Protect Clients' Interest. Defendant agrees not to file any objections to such motion. Upon the State's motion and approval of the Court, the Court will appoint an attorney to inventory the files of Defendants Kimberly Cook and Legal Services of East Tennessee in the same manner contemplated by Rule 9, Section 22 of the Rules of the Supreme Court of Tennessee. If the State requests the appointment of an attorney, the appointed attorney shall be empowered to take whatever action he or she deems indicated or necessary to protect the interests of the persons for whom Defendants Kimberly Cook and Legal Services of East Tennessee provided legal document preparation services.

IV.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that in the event the State requests that the Court appoint an attorney in the future, Defendants Kimberly Cook and Legal Services of East Tennessee shall immediately provide access to all files and records to the attorney so appointed by this Court. If requested by the appointed attorney, Defendants Kimberly Cook and Legal Services of East Tennessee shall deliver said records within 24 hours of the request to a location identified by the appointed attorney. Defendants Kimberly Cook and Legal Services of East Tennessee shall also execute any and all necessary documents to permit the appointed attorney to use funds received by the Defendants from persons as payment for legal document preparation services or from other business accounts to handle any and all financial matters indicated or necessary to protect the interests of the persons for whom the Defendants provided legal document preparation services. By signing this Agreed Temporary Injunction, Defendants Kimberly Cook and Legal Services of East Tennessee further warrant and represent that, since they were first contacted about this Order by the Attorney General's Office on April 19, 1999, they have made no withdrawals from the accounts identified to the Court other than those necessary in the customary course of business.

V.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that this Injunction shall remain in full force and effect pending further orders of this Court. Defendants agree to provide notice of this Order to all of their employees, agents, successors and assigns, and other persons in active concert or participation with the Defendants on the day of entry of this Order. The parties agree that no further hearings will be necessary to continue this Injunction. The Defendants agree they have received notice of this Injunction and no further notice or service is required by the State.

VI.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Defendants Kimberly H. Cook and Legal Services of East Tennessee, Inc. shall within forty-five (45) days provide a copy of the attached Notice (EXHIBIT A) to all persons that have paid Defendants to provide legal document preparation

services. This Notice is to be provided by First Class U.S. Mail to each person's last known address and, at the completion of sending such Notice, Defendants shall certify to counsel for the State of Tennessee that the sending of the Notice is complete and Defendants shall provide counsel for the State of Tennessee with an alphabetical list of the name and address of all persons to whom said Notice was sent. Defendants shall abide by all terms set forth in the Notice. If Defendants do not possess the records to identify persons that Defendants provided legal document preparation services for in the past, Defendants shall, at their own expense, place notices of at least quarter page size, notifying the general public of the fact Kimberly Cook engaged in the unauthorized practice of law. These published notices shall be placed in the Lenoir City Digest and the Roane County News. The required ads shall be published beginning on the first day of publication after entry of this Agreed Order Granting Temporary Injunction. The advertisement shall appear in the Roane County News in consecutive Monday and Friday issues of the paper. The advertisement shall appear in the Lenoir City Digest in consecutive issues covering an entire week of publication of the paper. The advertisement shall be identical to the advertisement attached as EXHIBIT A hereto. All such notices shall be placed in the front section of the stated newspapers. Within forty-five (45) days of entry of this Order, the Attorney General shall receive proof of the placement of the advertisements from the Defendants. Such proof shall include a receipt from the Lenoir City Digest and the Roane County News indicating that the required notice advertisements have been paid in full along with copies of each advertisement placed and the dates published. The State and this Honorable Court expressly rely upon Defendants' representations that the Lenoir City Digest and the Roane County News are circulated in all counties in which consumers, who have not received actual notification, reside for which Kimberly Cook provided legal document preparation services. Defendants shall be prohibited from disseminating any contradictory or inconsistent notices to the one required to be published attached as EXHIBIT A.

VII.

Defendants understand and acknowledge that pursuant to Tenn. Code Ann. § 23-3-103(4) of the UPL statute, any violation of the terms of this Order and Injunction shall be punishable by a civil penalty of not more than two thousand dollars (\$2,000.00) per violation, in addition to any other appropriate relief, including but not limited to, contempt sanctions and the imposition of attorneys' fees. Further, Defendants understand and acknowledge that pursuant to the provisions of the Tennessee Consumer Protection Act, Tenn. Code Ann. § 47-18-108(c), any knowing violation of the terms of this Order shall be punishable by civil penalties of not more than Two Thousand Dollars (\$2,000.00) for each violation, in addition to any other appropriate sanctions, including contempt sanctions and the imposition of attorneys' fees.

VIII.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Court shall retain jurisdiction of this matter for all purposes.

VIV.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that pursuant to Tenn. Code Ann. § 47-18-109(a)(4) and § 23-3-103(c)(3), the State is not required to provide a security bond.

X.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendants, Kimberly H. Cook and Legal Services of East Tennessee, Inc., shall pay all court costs associated with this Agreed Temporary Injunction. Additionally, in the event the State elects to request the appointment of a receiver, the Defendants shall pay all costs associated with the appointment of the receiver for the files. No costs shall be taxed to the State as provided by Tenn. Code Ann. § 47-18-116.